

Maritime Administration, DOT

Pt. 390, App. V

EXHIBIT D—XYZ COMPANY

SUMMARY BY VESSEL OF QUALIFIED WITHDRAWALS FROM THE FUND FOR THE SIX MONTHS ENDING JUNE 30, 19____

A. Acquisition or Construction of Vessels

- (1) 80,000 dwt tanker: No qualified withdrawals have been made to date; construction is presently scheduled to commence in mid-1977.
- (2) 130-foot ocean tug hull No. 210:

Balance brought forward	\$700,000
Qualified withdrawals during period	352,500

Total qualified withdrawals to date	1,052,500
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130-foot ocean tug hull No. 211: No withdrawals have been made to date; construction is presently scheduled to commence in November 1975

B. Acquisition or Construction of Barges, Containers and Trailers

250-foot tank barge: No qualified withdrawals have been made to date; construction presently scheduled to commence in November 1975.

C. Reconstruction of Vessels

None.

D. Reconstruction of Barges, Containers, and Trailers

None.

E. Payment of Principal on Existing Indebtedness

SS *Smith*—Official No. 236425:

Balance brought forward	\$500,000
Qualified withdrawals during period	250,000

Total qualified withdrawals to date	750,000
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APPENDIX IV TO PART 390—SAMPLE ADDENDUM TO MARITIME ADMINISTRATION CAPITAL CONSTRUCTION FUND AGREEMENT

This Agreement, made by the Maritime Administrator, Department of Transportation ("Maritime Administrator") and _____ ("Party"), a citizen of the United States of America, as an Addendum to that certain agreement, Contract No. MA/CCF-

Whereas: 1. On _____, the parties hereto entered into a Capital Construction Fund Agreement ("Agreement") under section 607 of the Merchant Marine Act, 1936, as amended ("Act");

2. The parties hereto desire to modify that Agreement in the manner hereinafter set forth;

3. The parties hereto have agreed to said amendment and desire to incorporate the same into the Agreement.

Now, therefore, in consideration of the premises the Maritime Administrator and the Party agree as follows:

Notwithstanding the provisions of Article 4(A)(2) of the Agreement, the Party may, within sixty (60) days after notice appears in the FEDERAL REGISTER that the Regulations jointly prescribed by the Secretary of the Treasury and the Secretary of Transportation have been finalized, terminate the Agreement, if such Regulations have a substantial effect on the rights or obligations of the Party. Upon termination of the Agreement pursuant to this Addendum No. _____ the provisions of the Internal Revenue Code of 1954, the Act, and the rules and regulations shall apply to all funds remaining in the Fund as if such funds were withdrawn in a non-qualified, withdrawal, as that term is defined in the Act and the rules and regulations.

In witness whereof, the Secretary and the Party have executed this addendum, in quadruplicate, effective as of the date indicated below.

UNITED STATES OF AMERICA,
Secretary of Transportation,
Maritime Administrator,

Department of Transportation

By	By
(Contracting Officer)	

Date	Title
Attest:	Attest:

By	By
(Secretary)	

.....	Title
(SEAL)	(SEAL)

Approved as to form:

.....
(Assistant Chief Counsel
Maritime Administration)

[G.O. 109, Rev., Amdt. 6, 42 FR 43634, Aug. 30, 1977, as amended at 73 FR 56741, Sept. 30, 2008]

EDITORIAL NOTE: At 73 FR 56741, Sept. 30, 2008, appendix IV to part 390 was amended; however, a portion of the amendment could not be incorporated due to inaccurate amendatory instruction.

APPENDIX V TO PART 390—SAMPLE QUALIFIED TRADE AFFIDAVIT

AFFIDAVIT

State of _____
County of _____
I, _____, (Name) being duly sworn, depose and say:

1. That I am the _____ (Title) of _____.
(Name of party)

2. That I am fully acquainted with and have knowledge of the operations of all qualified agreement vessels owned or operated by my company and identified in Capital Construction Fund Agreement, MA/CCF _____.
_____.

3. That I have full knowledge of the trading restrictions and liquidated damages provisions pertaining to qualified agreement vessels, as stipulated in section 607 of the Merchant Marine Act, 1936, as amended, and in the rules and regulations of 46 CFR Part 390.

4. That based on my inspection of Company records and to the best of my knowledge and belief, except as noted below in statement 5 of this affidavit, during the period _____ (Beginning of taxable year) through _____ (End of taxable year) my company operated its qualified agreement vessels only in the United States, foreign, Great Lakes, and noncontiguous domestic trade in accordance with Capital Construction Fund Agreement, MA/CCF _____.

5. Exceptions to statement 4 of this Affidavit are as follows (indicate exceptions below or attach a supplemental statement if additional space is needed; if there are no exceptions, write "none"):

(Affiant)

Subscribed and sworn to before me, a Notary Public in and for the State, City and County above named, this _____ day of _____, 19____.

(Notary Public)

My _____ commission expires _____, 19____.

[41 FR 39751, Sept. 16, 1976]

PART 391—FEDERAL INCOME TAX ASPECTS OF THE CAPITAL CONSTRUCTION FUND

Sec.

391.0 Statutory provisions; section 607, Merchant Marine Act, 1936, as amended.

391.1 Scope of section 607 of the Act and the regulations in this part.

391.2 Ceiling on deposits.

391.3 Nontaxability of deposits.

391.4 Establishment of accounts.

391.5 Qualified withdrawals.

391.6 Tax treatment of qualified withdrawals.

391.7 Tax treatment of nonqualified withdrawals.

391.8 Certain corporate reorganizations and changes in partnerships, and certain transfers on death. [Reserved]

391.9 Consolidated returns. [Reserved]

391.10 Transitional rules for existing funds.

391.11 Definitions.

AUTHORITY: Secs. 204(b) and 607(1), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114, 1177), Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840) as amended by Pub. L. 91-469 (84

Stat. 1036), Dept. of Commerce Organization Order 10-8 (38 FR 19707), July 23, 1973.

SOURCE: 41 FR 23960, June 14, 1976, unless otherwise noted.

§ 391.0 Statutory provisions; section 607, Merchant Marine Act, 1936, as amended.

SEC. 607 (a) Agreement Rules.

Any citizen of the United States owning or leasing one or more eligible vessels (as defined in subsection (k)(1)) may enter into an agreement with the Secretary of Transportation under, and as provided in, this section to establish a capital construction fund (hereinafter in this section referred to as the "fund") with respect to any or all of such vessels. Any agreement entered into under this section shall be for the purpose of providing replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States for operation in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States and shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under subsection (f). The deposits in the fund, and all withdrawals from the fund, whether qualified or nonqualified, shall be subject to such conditions and requirements as the Secretary of Transportation may by regulations prescribe or are set forth in such agreement; except that the Secretary of Transportation may not require any person to deposit in the fund for any taxable year more than 50 percent of that portion of such person's taxable income for such year (computed in the manner provided in subsection (b)(1)(A)) which is attributable to the operation of the agreement vessels.

(b) Ceiling on Deposits.

(1) The amount deposited under subsection (a) in the fund for any taxable year shall not exceed the sum of:

(A) That portion of the taxable income of the owner or lessee for such year (computed as provided in chapter 1 of the Internal Revenue Code of 1954 but without regard to the carryback of any net operating loss or net capital loss and without regard to this section) which is attributable to the operation of the agreement vessels in the foreign or domestic commerce of the United States or in the fisheries of the United States.

(B) The amount allowable as a deduction under section 167 of the Internal Revenue Code of 1954 for such year with respect to the agreement vessels.

(C) If the transaction is not taken into account for purposes of subparagraph (A), the net proceeds (as defined in joint regulations) from (i) the sale or other disposition of any